IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 437 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GOVIND OIL MILLS PVT. LTD.

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR MK VAKHARIA for Petitioner

MR Deepak Dave for AD OZA for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 30/03/2000

ORAL JUDGEMENT

Draft amendment granted.

Rule. Mr. Deepak Dave appears for the respondent and waives service of notice of rule. In the facts and

circumstances, the matter is taken up for final hearing today.

This petition is filed for an appropriate writ, order or direction quashing and setting aside the order passed by Gujarat Electricity Board and by directing the Board to supply electricity to the petitioner by installing a new meter in the business premises of the petitioner. Notice was issued in the matter, pursuant to which parties had appeared.

Several contentions were raised at the time of hearing of the petition. It is, however, necessary to note that an appeal is provided against issuance of supplementary electricity bill by the Board. Such appeal is heard by an expert committee consisting of various members including a judicial member. In these circumstances, in my opinion, it would be advisable and desirable that this Court may not entertain points raised in the petition at this stage and may grant leave to the petitioner to approach the appellate committee.

It was stated by Mr. Vakharia that the petitioner had applied for a new meter as the old meter , according to the petitioner, was stolen and at that time, no supplementary bill was issued to the petitioner and it was only after notice was issued by this Court that the board appeared and stated that a supplementary bill was issued which was not received by the petitioner when the petition was filed. It was stated that the bill was given in court during the pendency of the petition.

In the facts and circumstances, in my opinion, it would be in the interest of justice if the petitioner is granted liberty to approach the appellate committee. If the petitioner will file appeal before the appellate committee on or before 17th April, 2000, the appellate committee shall entertain the appeal without raising any objection as to limitation and shall decide the same in accordance with law on its own merits.

So far as deposit is concerned, it was submitted on behalf of the respondent that 30% of the amount will have to be deposited by the petitioner. Mr.Vakharia stated that this is an exceptional case in view of the fact that the petitioner unit had remained closed and was without electricity supply as the meter was stolen. He stated that a petition was filed for appropriate directions to the Board to supply new meter . This is,therefore, a proper case not to insist for deposit of 30% amount.

On the other hand, Mr. Deepak Dave submitted that electricity was taken from open line and it came to the notice of the Board and hence, supplementary bill was issued which was in accordance with law. Mr. Vakharia stated that there is no material on record as on today relating to the above allegation.

In my opinion, this is not a case in which there should be departure from usual practice of 30% of deposit. In the facts and circumstances, however, some time should be granted to the petitioner for depositing the amount. It is, therefore, directed that such 30% of deposit will be made in three instalments of 10% each . First instalment shall be paid on or before 1st May, 2000; second instalment to be paid on or before 1st June, 2000 and the third instalment to be paid on or before 1st July, 2000. It is,however, clarified that the appeal shall be taken up for hearing only after all the three instalments are paid.

I may state that I have disposed of the petition on the ground of availability of alternative remedy and I may not be understood to have stated anything on merits. All the contentions of the respective parties are kept open. The parties can raise all contentions before the appellate committee and the appellate committee will decide appeal in accordance with law, without being influenced by the observations made by me hereinabove.

Rule is made absolute to the aforesaid extent. No order as to costs.

--

parekh